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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/697,551

10/30/2003

Walter Bernard Hill JR.

3597-143

9906

33432

7590

05/11/2006

KILYK & BOWERSOX, P.L.L.C.  
400 HOLIDAY COURT  
SUITE 102  
WARRENTON, VA 20186

EXAMINER

FORTUNA, JOSE A

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/697,551	HILL, WALTER BERNARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	José A. Fortuna	1731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/05;1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Pomplun et al., GB 2,122,209 A.

Regarding claims 1, 17-18, Pomplun et al. teach a creping process in which a creping adhesive comprising polyvinylpyrrolidone and a high molecular polymer is used, see abstract and page 1, lines 71-124. The creping adhesive does not contain ethoxylated acetylenic diol or oxazoline, which meets the criteria of the claims for those components, i.e., “less than” includes zero as the lower limit.

Regarding claims 2-9, Pomplun et al. teach the use of a K-30 polyvinylpyrrolidone manufactured by GAF, see page 2, lines 5-11 and footnote in the same page, (it is well known that K-30 Polyvinylpyrrolidone, PVP, have K ranges from 26-35 and average molecular weight of about 40,000 Daltons<sup>1</sup>). Also Pomplun et al. teach the use of polyvinyl alcohol, PVA, and the same addition amount and PVA to PVP ratio, see for example claim 3. Pomplun et al creping adhesive does not contain chloride or epichlorohydrin.

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<sup>1</sup> See IPCS INCHEM Document attached in PTO-892.

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Regarding claims 10-15, these steps are taught on page 1, lines 17-32, in which they incorporate by reference US Patent No. 4,304,625 to Grube et al., wrongly referred as 4,304,635, which describes the same claimed steps, see for example column 1 and column 3, lines 15-60. Note also that the Grube et al. teach the impression fabric having knuckles as claimed., see column 1, and column 3, lines 15-60.

With regard to claim 16, this claim is a product by process claim and Pomplun et al. teach the same process of making the web and using the same additives, see above, in the event any differences can be shown for the product -by-process claims 16 as opposed to the product taught by the reference Pomplun et al. such differences would have been obvious to one of ordinary skill in the art as routine modification of the product in the absence of a showing unexpected results, see *In re Thorpe*, 227 USPQ 964 (CAFC 1985).

As the afore mentioned claims are product by process claims, it is deemed that "[A]ny difference imparted by the product by process claims would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art the burden of proof is shifted to the applicants to establish that their product is patentably distinct, ..." *In re Brown*, 173 U.S.P.Q. 685, and *In re Fessmann*, 180 U.S.P.Q. 324.

Further, "[P]rocess limitations are significant only to the extent that they distinguish the claimed product over the prior art product." *In re Luck*, 177 U.S.P.Q. 523 (1973)

3. Claims 1, 6-13, 16-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Warchol et al., US Patent No. 5,633,309.

Warchol et al. teach a creping adhesive and a method of creping, in which a paper web is creped from a Yankee Dryer and the creping adhesive is added to the surface of said dryer, see abstract and column 1, lines 54-59. Warchol et al. teach that the creping adhesive contains an oxazoline polymer and a polyamide resin or alternatively an oxazoline and a multipolymer, such as polyvinylpyrrolidone, column 5, lines 11-27. Warchol et al. teach that the concentrate adhesive contains between 5 to about 25% of solids and between 1 to about 5% by weight of oxazoline, see column 2, lines 9-20, but they teach that before use, the adhesive is diluted to solids concentration from about 0.1 to 5%, see column 5, lines 41-48, which reduces the concentration of oxazoline to less than 1%, i.e., 5 to 50 folds concentration reduction. It seems that Warchol et al. teaches all the elements of the above claims or at least the minor modification(s) to obtain the claimed invention would have been obvious to one of ordinary skill in the art.

With regard to claim 16, this claim is a product by process claim and Warchol et al. teach the same process of making the web and using the same additives, see above, in the event any differences can be shown for the product -by-process claims 16 as opposed to the product taught by the reference Warchol et al. such differences would have been obvious to one of ordinary skill in the art as routine modification of the product in the absence of a showing unexpected results, see *In re Thorpe*, 227 USPQ 964 (CAFC 1985).

As the afore mentioned claims are product by process claims, it is deemed that "[A]ny difference imparted by the product by process claims would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art the burden

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Further, "[P]rocess limitations are significant only to the extent that they distinguish the claimed product over the prior art product." In re Luck, 177 U.S.P.Q. 523 (1973)

### ***Conclusion***


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of "Creping with Polyvinylpyrrolidone adhesives."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
José A Fortuna  
Primary Examiner  
Art Unit 1731

JAF